

Application No. 09/270,688

Docket No. 742407-4

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REMARKS

The Examiner's non-final Office Action of March 8, 2004 has been received and its contents reviewed. Accordingly, claims 1, 13 and 17 have been amended. Claims 1, 3, 4, 6-29 remain currently pending with claims 1, 13 and 17 being independent. The Applicant wishes to thank Examiner Cadugan for the courtesies extended to the Applicant's representative during the interview of June 2, 2004. In light of the interview, the issues discussed being summarized below, and in view of the amendments to the claims above, the Applicant requests reconsideration of the instant application.

With regard to the Examiner's rejection of:

Claims 1, 4, 6-29, under § 103(a), as being obvious in view of the combination of teachings of Sundman ('256) and Garuit-Lempirou ('803), and

Claim 3, under § 103(a), as being obvious in view of the combination of teachings of Sundman ('256), Garuit-Lempirou ('803) and the Applicant's admission as to the state of the prior art (AAPA),

these rejections are respectfully traversed. Specifically, the method of exemplary claim 1 as presently amended includes the following features:

...method of forming a custom-made insole comprising the steps of:

randomly positioning a foot to be measured on a laser scanning station;

passing at least one laser scanning unit along an undersurface of the foot;

scanning the undersurface of the foot with the at least one laser scanning unit by directing at least one line of laser light along the undersurface;

measuring surface coordinates of the undersurface detected by the at least one laser scanning unit by gathering data which directly correlates to distance measurements between the at least one laser scanning unit and the underside of the foot;

processing the measured surface coordinates;

transmitting the processed measured surface coordinates to a data processing unit; and

milling a custom-made insole based on the transmitted surface coordinates.  
(Emphasis added)

Claims 3 and 17 have been similarly amended.

From a review of the references cited by the Examiner, only the Garuit-Lempirou reference performs a scanning of foot in a manner similar to that set forth above. However, as noted in the BPAI Decision of November 25, 2003, at pages 11 (last paragraph) and 12, neither the instantly disclosed method and apparatus of digitizing through

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transparent, planar side walls, which are themselves are not digitized or cause diffraction of the beam requiring correction - as is required by Garuet-Lempirou, was set forth in the claims as previously presented. Specifically, Garuet-Lempirou (Figure 3; column 6, lines 30-65) utilize an scanning apparatus which does not directly gather which directly correlates to distance measurements between the at least one laser scanning unit and the underside of the foot since the shape of the foot support (Figure 3, element 40) causes diffraction of the lamellar scanning beam which yields a displaced measured coordinate which must be calibrated in order to provide a corrected measured coordinate which can be subsequently processed to provide a three-dimension depiction of the undersurface of a foot. A review of the remainder of Garuet-Lempirou reveals that the patentee provides no guidance to modify those teachings mentioned above to perform a scanning requiring no calibration of the scanned foot. Therefore, the combination of teachings of Sundman ('256) and Garuit-Lempirou ('803), alone, or along with the AAPA, does not teach each and every feature of the claimed invention, and, further, does not provide one of ordinary skill in the prior art a suggestion to modify the teachings of Garuit-Lempirou to perform no calibration of the measured coordinates. Consequently, a prima facie case of obviousness has not been established, and the rejections of claims 1, 3, 4, 6-29 must now be withdrawn.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise, which could be eliminated through discussions with Applicant's representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

Respectfully submitted,

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